Supreme Court, U.S.
FILED

(1)

No. 02 285 APR 11 2002

OFFICE OF THE CLERK

In The

Supreme Court of the United States

CHARLES HERSHFIELD, *Pro Se*,

Petitioner,

v.

COUNTY OF KING GEORGE, VIRGINIA,

Respondent.

On Petition For Writ Of Certiorari To The Supreme Court Of Virginia

PETITION FOR WRIT OF CERTIORARI

CHARLES HERSHFIELD
Box 934
Dahlgren, VA 22448

Telephone: 540.663.2903

Petitioner Pro Se

12 pp

QUESTION PRESENTED

Did the Circuit Court err when it issued an Order violating a section of the Virginia State Code?

OPINIONS BELOW

The Order of the Circuit Court of King George County, Virginia, dated April 5, 2001, is reproduced in the appendix at App. 1-2. The denial of the Petition for Rehearing in the Virginia Supreme Court of January 11, 2002, is reproduced in the appendix at App. 3.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. Sec. 1257(a).

STATUTORY PROVISION INVOLVED

Section 15.2-2209 of the Virginia State Code is reproduced in the appendix at App. 4-5.

STATEMENT OF THE CASE

I am a pro se Petitioner, a retired person 74 years old, and I come to you as the Court of last resort. My argument presented here, among other arguments, was presented to the Circuit Court judge and to the Virginia Supreme Court, with negative results. The Circuit Court judge issued an Order on 05 Apr 01 which is a violation of Section 15.2-2209 of the Virginia State Code, and I am asking that this matter be corrected, or remanded so that the Order can be changed to be consistent with that Code section.

REASONS FOR GRANTING THE PETITION

In order to obtain permission to appeal this matter, it was required that I post a $3000 bond in General District Court. The Civil Appeal Notice dated November 13, 2000, is reproduced in the appendix at App. 6. The receipt dated December 7, 2000, Case No. V00-594, showing the total received of $3000 is reproduced in the appendix at App. 7. In Circuit Court the judge forfeited that $3000 bond, and then in his Order of April 5, 2001, he levied an additional penalty of $3000, making a total penalty of $6000. That penalty is a violation of Section 15.2-2209 of the Virginia State Code. That code section states, in part, that "a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of $3000." The total civil penalty levied upon me for that alleged zoning violation is $6000, and that civil penalty is a violation of Virginia state law.

CONCLUSION

As any other citizen does, I have the Constitutional right to Due Process of Law, and the circuit court Order with penalty of $6000 violates my Due Process rights and my Equal Protection rights. The Order is unreasonable, arbitrary, and capricious. Surely a circuit court Order should be consistent with state law. The Petitioner asks that the circuit court Order be corrected to be consistent with Virginia state law, or in the alternative, that this matter be remanded back for further consideration.

I ask for relief from the Court, and that this Petition be granted.

Respectfully submitted,

CHARLES HERSHFIELD
Box 934
Dahlgren, VA 22448

Telephone: 540.663.2903

Petitioner Pro Se

VIRGINIA

IN THE CIRCUIT COURT OF
KING GEORGE COUNTY

COUNTY OF KING GEORGE,

Plaintiff

v. Case No. CL00-51

CHARLES J. HERSHFIELD, JR.,

Defendant.

ORDER

UPON MOTION OF KING GEORGE COUNTY, by counsel, and after due consideration of the evidence presented by both parties, the Court finds that defendant, Charles J. Hershfield, Jr., has been in continuous violation of King George County Zoning Ordinance 3.9.2 from October 22, 1997 through March 29, 2001, and pursuant to Va. Code Section 15.2-2209, hereby ORDERS, AD-JUDGES, and DECREES as follows:

1. The defendant is fined $3,000.00;
2. The defendant's bond is forfeited to King George County; and
3. The defendant is ordered to comply with the ordinances of King George County.
4. Defendant notes his exception.

Dated: April 5, 2001

/s/ James W. Haley
James W. Haley, Judge
King George Circuit Court

Copies to

Matthew J. Britton
9483 Kings Highway
King George, VA 22485

Charles J. Hershfield, Jr.
PO Box 934
Dahlgren, VA 22448

A COPY TESTE:

Charles V. Mason, Clerk

By /s/ Jean G. Trainer
Deputy Clerk

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday *the* 11th *day of* January, 2002.

Charles Hershfield, Appellant,

against Record No. 011565
Circuit Court No. CL00-51

County of King George, Appellee.

Upon a Petition for Rehearing

On consideration of the petition of the appellant to set aside the judgment rendered herein on the 26th day of October, 2001 and grant a rehearing thereof, the prayer of the said petition is denied.

A Copy,

Teste:

/s/ David B. Beach
Clerk

§ 15.2-2209. Civil penalties for violations of zoning ordinance.

Notwithstanding provision 5 of *§ 15.2-2286,* any locality may adopt an ordinance which establishes a uniform schedule of civil penalties for violations of specified provisions of the zoning ordinance. The schedule of offenses shall not include any zoning violation resulting in injury to any persons, and the existence of a civil penalty shall not preclude action by the zoning administrator under provision 4 of *§ 15.2-2286* or action by the governing body under *§ 15.2-2208.*

This schedule of civil penalties shall be uniform for each type of specified violation, and the penalty for any one violation shall be a civil penalty of not more than $100 for the initial summons and not more than $150 for each additional summons. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any ten-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of $3,000. Designation of a particular zoning ordinance violation for a civil penalty pursuant to this section shall be in lieu of criminal sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor.

The zoning administrator or his deputy may issue a civil summons as provided by law for a scheduled violation.

Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the department of finance or the treasurer of the locality prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such person shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.

If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section, it shall be the burden of the locality to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

No provision herein shall be construed to allow the imposition of civil penalties (i) for activities related to land development or (ii) for violation of any provision of a local zoning ordinance relating to the posting of signs on public property or public rights-of-way.

RETURN

CIVIL A AL NOTICE
Commonwealth of Virginia

VA. CODE ANN. § 16.1-106-107

King George County
CITY OR COUNTY

☑ General District Court ☐ Juvenile and Domestic Relations District Court

I, the undersigned, note my appeal of the judgment of this Court to the Circuit Court of this city or county, which is located at

9483 Kings Highway, King George, VA — STREET ADDRESS OF CIRCUIT COURT
540-775-3322 — TELEPHONE

☑ My case is scheduled to be called for ☐ trial ☑ setting of trial date on

January 11, 2001 at 10:00 AM
DATE AND TIME OF APPEARANCE

☑ I understand that I must contact the circuit court clerk's office for instructions for setting the trial date. I understand that within thirty (30) days (ten (10) days in unlawful detainer cases) of the entry of judgment, I must deliver to the Clerk of the Court:

a. $ 64.00 for writ tax and costs (General District Court).

b. $ 3,000.00 appeal bond with sufficient surety approved by the Judge or Clerk of this Court or cash deposit. The appeal bond should be written to indemnify the party in whose favor a judgment was rendered in this Court in the event that such party is awarded a judgment on appeal in Circuit Court.

CIVIL CONTEMPT FINDING IN CHILD SUPPORT CASES: ☐ Bond amount must secure the payment of prospective support accruing during the pendency of the appeal.

I further understand that I must pay the writ tax and costs if applicable and post the appeal bond within thirty (30) days (ten (10) days in unlawful detainer cases) of the entry of judgment for the appeal in my case to be complete ("perfected"), and that my failure to do so within the thirty (30) day period (ten (10) day period in unlawful detainer cases) will result in the loss of my appeal rights.

11-13-00
DATE APPEAL NOTED

x Charles Hershfield
APPELLANT ☐ PLAINTIFF ☐ DEFENDANT

The Attachment with this Notice is a copy of the Summons which shows the charge of two violations of the zoning ordinance.

ATTORNEY FOR APPELLANT

NOTICE: Promptly communicate with the Clerk of the Circuit Court of this jurisdiction if you wish to subpoena witnesses and request a jury trial.

CASE NO. V00-594

CIVIL APPEAL NOTICE

County of King George

Charles J. Hershfield Jr
17000 15th Street
Dahlgren, VA 22448

JUDGMENT DATE:
11-7-00

PLAINTIFF'S ATTORNEY [ ] Same as on Attached Warrant

DEFENDANT'S ATTORNEY [ ] Same as on Attached Warrant

SIGN HERE

☐ IN CIVIL CONTEMPT CASES

$

Charles J Hershfield Jr not found and is not an inhabitant of my bailiwick. Nov. 16, 2000.

C W Dobson
SHERIFF, COUNTY OF KING GEORGE, VIRGINIA
BY: DEPUTY SHERIFF

FORM DC-475 PC 7/97 (114:6-010 7/97)

BEST AVAILABLE COPY

J 179737

Collected for the:

☒ General District Court ☐ J & DR District Court ☐ Circuit Court ☐ _____

County/City King George VIRGINIA 12/7 , 2000 CASE NO. V00-594

ACCOUNT OF Charles J. Hershfield, Jr.

RECEIVED OF Charles J. Hershfield, Jr.

110	State Fines		132	CICF		217	C.A. Atty.-Local		
112	Processing Fee		133	Blood Test Fees		219	Law Library		
113	Witness Fee		135	Bad Check		229	CHMF		
118	Civil Proc. Fee		140	DEJF		237	Civil Penalty		
120	C.A. Atty.-State		109	Interest		242	Local Interest		
121	F.T.A. Fee T.I.		503	Civil Pen	3000 00	502	Bonds		
123	Legal Aid Fee					509	Escrow		
129	Civil Penalty		201	Local Fines		515	Overpayment		
							Total Received	$	3000 00

I hereby certify this to be the Official Receipt Form authorized by law. Receipt in any other form shall not be valid against the Commonwealth of Virginia.

D. M. Daly, Dep. Clerk
Collecting Officer Title

☒ Paid in Full ☐ Partial Payment ☐ Prepayment
☒ Cash ☐ Check or M.O. ☐ Credit Card

Form DC-7 (9/92)

App. 7